

STATE OF MICHIGAN
COURT OF APPEALS

TITAN INSURANCE COMPANY,

Plaintiff-Appellant,

UNPUBLISHED
September 11, 2008

v

NORTHLAND INSURANCE COMPANY,

Defendant-Appellee.

No. 275866
Genesee Circuit Court
LC No. 06-084135-CK

Before: Gleicher, P.J., and O’Connell and Kelly, JJ.

PER CURIAM.

Plaintiff Titan Insurance Company (Titan) appeals as of right the trial court’s order granting defendant summary disposition. We reverse.

Marvin Eschenweck sustained serious injuries while unloading PVC pipes from the trailer of his semi-tractor truck. Defendant Northland Insurance Company (Northland) insured Eschenweck’s truck. The original Northland policy identified Eschenweck’s former employer, Steel Transportation Services, Inc., as the “named insured.” A subsequent policy endorsement entitled “LESSOR – ADDITIONAL INSURED AND LOSS PAYEE,” identified Eschenweck as an “additional insured (Lessor).” Titan insured Eschenweck’s personal motor vehicle.

Eschenweck twice sued Titan seeking personal injury protection (PIP) benefits pursuant to MCL 500.3114, and both cases were settled. In June 2006, Titan commenced this action against Northland seeking to recoup half the expenses it paid to Eschenweck. The trial court ruled that Titan alone had priority with respect to Eschenweck’s PIP benefit claim. On appeal, Titan contends that because Eschenweck is an “insured” who is “named in the polic[ies]” of both Titan and Northland, the plain language of MCL 500.3114(1) places it and Northland in equal priority. Under the circumstances presented in this case, we agree. We review de novo a trial court’s decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

MCL 500.3114(1) provides in relevant part:

Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person’s spouse, and a relative of either

domiciled in the same household, if the injury arises from a motor vehicle accident.

Here, the defendant's original policy only identified Steel Transportation Services, Inc. as the named insured. However, the subsequent endorsement amended the policy. With the additional endorsement, Eschenweck was added as an "[a]dditional insured (Lessor)." The coverage was amended to include:

Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow. For a covered "auto" that is a "leased auto" **Who is An Insured** is *changed to include as an "insured" the lessor named in the schedule.* (Emphasis added, bold in original.)

The injured driver, Eschenweck, is listed as the "lessor" and the only "leased auto" identified is his tractor. While "merely listing a person as a designated driver on a no-fault policy does not make the person a named insured," *Harwood v Auto-Owners Ins Co*, 211 Mich App 249, 253; 535 NW2d 207 (1995), Eschenweck is not merely listed as a driver. He is listed as the "lessor named in the schedule" and as such, is an insured "named in the policy." MCL 500.3114(1).

The plain language of MCL 500.3114(1), together with defendant's policy specifically denominating the lessor as an additional insured rather than simply a "designated driver," means that defendant must share the liability for paying the driver's personal injury claims.

Reversed.

/s/ Kirsten Frank Kelly